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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria*

1. The Committee considered the combined twentieth to twenty-second periodic reports of Bulgaria (CERD/C/BGR/20-22), submitted in one document, at its 2534th and 2535th meetings (see CERD/C/SR.2534 and 2535), held on 4 and 5 May 2017. At its 2543rd and 2544th meetings, held on 11 May 2017, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twentieth to twenty-second periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee wishes to commend the open dialogue with the State party's multisectoral delegation. The Committee also notes the additional information submitted in writing after the dialogue.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative, institutional and policy measures:

(a) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection and Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, in 2015, which have had the effect of reducing the length of administrative detention for persons applying for asylum;

(b) The amendments to the Asylum and Refugees Act extending the child guardianship system to migrant children, in October 2015;

(c) The amendments to the Legal Aid Act contributing to improved access to justice by disadvantaged groups and individuals, in 2013;

(d) The amendments to the Law for Foreigners in the Republic of Bulgaria prohibiting the detention of unaccompanied children, in 2013;

* Adopted by the Committee at its ninety-second session (24 April-12 May 2017).

(e) The Strategy for the Educational Integration for Children and Students from Ethnic Minorities (2015-2020) and its action plan;

(f) The National Strategy on Migration, Asylum and Integration (2015-2020);

(g) The National Roma Integration Strategy (2012-2020) and its actions plans;

(h) The Health Strategy for Disadvantaged Persons Belonging to Ethnic Minorities (2005-2015).

4. The Committee further welcomes the ratification by the State party of the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities, in 2012;

(b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2011.

C. Concerns and recommendations

Visibility of the Convention

5. Bearing in mind the direct applicability of the Convention in the State party's legal order, the Committee regrets the lack of information on court cases in which the Convention's provisions were invoked before, or applied by, domestic courts (art. 2).

6. **The Committee recommends that the State party take appropriate measures, including through training, to ensure that judges, prosecutors and lawyers have sufficient knowledge of the provisions of the Convention to enable them to apply them in relevant cases. It requests the State party to include in its next periodic report specific examples of the application of the Convention by domestic courts.**

Disaggregated data

7. The Committee regrets the lack of updated disaggregated statistical data regarding the de facto enjoyment by members of ethnic minorities and non-citizens of the rights protected under the Convention, without which it is difficult to assess the socioeconomic situation of different groups in the State party. The Committee is also concerned about the lack of data on the ethnic composition of the prison population (art. 2).

8. **Drawing attention to the guidelines for reporting under the Convention (see CERD/C/2007/1, paras. 10-12) and recalling its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party collect and publicize reliable statistical data on the social and economic situation of individual ethnic groups, disaggregated by areas where the minority groups live in substantial numbers, in order to provide an adequate empirical basis for policies to enhance the equal enjoyment of rights under the Convention. The Committee also recommends that the State party collect data on the ethnic composition of the prison population. The Committee requests the State party to provide it with such information in its next periodic report.**

Equality bodies

9. The Committee notes the information provided during the dialogue on measures taken to strengthen the capacity, including with regard to outreach, of the Commission for the Protection against Discrimination, as well as to bring the Ombudsman in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee, however, remains concerned about persistent shortcomings in the functioning of these bodies, despite its previous recommendations, owing in part to the limited independence of the Commission and the insufficient financial and human resources of the Ombudsman. The Committee is further concerned about the low number of discrimination-related complaints on grounds of race or ethnicity submitted to the Commission (art. 2).

10. **The Committee recommends that the State party:**

(a) Take immediate measures to strengthen the capacity, independence and financial resources of both the Commission for the Protection against Discrimination and the Ombudsman, and that it make every effort to bring the Ombudsman in full compliance with the Paris Principles, including by undertaking the necessary legislative amendments to the Ombudsman Act, as indicated during the dialogue, and by taking into consideration the Committee's general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention;

(b) Take effective measures to reinforce public confidence in existing institutions and mechanisms responsible for addressing racist hate crimes;

(c) Embark on awareness-raising campaigns addressing the general public and groups specifically vulnerable to discrimination on the mechanisms available to submit complaints;

(d) Ensure that complaint procedures are simple, widely known and accessible to all.

Hate speech and hate crimes

11. The Committee is deeply concerned at the reported increase in incidents of hate speech and hate crime during the period under review, specifically of incidents targeting minority groups such as Turks, Roma, Muslims, Jews, people of African descent, migrants, refugees and asylum seekers. In particular, the Committee is concerned that racist discourse and appeals are evident during election campaigns and that political parties and candidates frequently use slurs against minority groups and individuals. Moreover, the Committee notes with concern that the Council for Electronic Media has failed to curb racist discourse and the spread of hate speech on the Internet and social media (arts. 2, 4 and 7).

12. **Pursuant to its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:**

(a) Amend the Act on Protection against Discrimination and other acts, as necessary, to include a definition of hate speech that is in line with article 4 of the Convention, bearing also in mind its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 15 (1993) on article 4 of the Convention;

(b) Establish protocols to prevent and condemn hate speech by public officials and politicians, investigate incidents of racist hate speech and racially motivated violence, take appropriate measures against persons using hate speech and prosecute perpetrators of racially motivated crimes;

(c) Raise public awareness on respect for diversity and the elimination of racial discrimination;

(d) Ensure that its media-related legislation is in accordance with international standards and take effective measures to strengthen the mandate and capacity of the Council for Electronic Media to prevent, sanction and deter any manifestations of racism in the media.

Criminal justice system

13. The Committee regrets the limited application of article 162 (2) of the Criminal Code, among other articles addressing racist offences, by law enforcement officials, and the low conviction rate of racist crimes, despite the reported increase in such crimes over the reporting period. The Committee notes with concern the apparent contradiction in the statistics provided in the State party report and those provided by international organizations concerning the reporting, prosecution and sentencing of hate crimes (arts. 1, 2 and 4).

14. The Committee recalls that implementation of the provisions set out in article 4 of the Convention is mandatory. States parties have not only to enact appropriate legislation, but also to ensure that it is effectively enforced. Recalling its general recommendations No. 26 (2000) on article 6 of the Convention and No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Conduct awareness-raising campaigns addressing the general public about the existence of criminal law provisions penalizing racially motivated acts and encourage victims of such acts to lodge complaints;

(b) Enhance efforts to improve access to justice and the functioning of the judicial system, including by intensifying training of the police, prosecutors, judges and other professionals in the judicial system on the importance of prosecuting perpetrators of racist acts and the application of laws on racist offences;

(c) Consider appointing special prosecutors to address hate speech and hate crimes with a view to increasing the reporting rate of such crimes and the application of related criminal provisions;

(d) Provide updated information concerning the application by the courts of anti-discrimination provisions and statistical data on the number and nature of reported crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by age, gender, national or ethnic origin and migration status of victims.

Civil and administrative liability

15. While noting that the application of the Criminal Code remains central to combating racial discrimination, the Committee expresses concern at the lack of comprehensive information on instruments of civil and administrative liability, which are also essential for enhancing the prevention of racial discrimination and effective recourse to justice by its victims (arts. 1, 2 and 4).

16. The Committee recommends that the State party include in its next periodic report information on all instruments that establish civil, labour and administrative liability for acts of racial discrimination, and data on administrative procedures and sanctions handed down by the competent bodies.

Political participation of minority groups

17. While regretting the absence of statistical data on the political representation of ethnic and minority groups in the State party, the Committee is concerned about the reported limited representation of minority groups in the parliament and in public office (arts. 2 and 5).

18. The Committee recommends that the State party provide statistical data in its next periodic report on the representation of minority groups in the parliament and in public office. In the light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State party take concrete measures to ensure that minority ethnic groups are adequately represented in the parliament and the civil service.

Discrimination against Roma

19. The Committee is aware of the many institutional and policy measures adopted by the State party that aim at eliminating racial discrimination against Roma. It is, however, concerned about the continued marginalization of Roma in all walks of life, including in public and political life, and the serious challenges they face in accessing basic services, which is attributed to limited funding and a deficient implementation of related initiatives. In particular, the Committee is concerned about:

(a) The prevalence of forced evictions disproportionately affecting Roma individuals, leading to homelessness;

(b) The persistence of de facto educational segregation, combined with limited access to mainstream education, especially at the preschool level, and high school dropout rates, including at the primary school level;

(c) The high level of unemployment among Roma and their concentration in low-income occupations;

(d) The considerable number of Roma without health insurance and impediments in access to quality health-care services;

(e) The persistence of negative stereotypes of and prejudice against the Roma, and the dissemination of such stereotypes and prejudice through the media (arts. 2, 3 and 5).

20. **The Committee recommends that the State party evaluate its national, regional and municipal strategies on Roma and provide detailed information to the Committee in its next periodic report on the results of such initiatives and on the progress made in realizing the rights of Roma. Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:**

(a) **Stop the persistent practice of forcibly evicting and destroying Roma settlements without offering alternative housing or adequate compensation, and take measures to legalize existing settlements to the extent possible while facilitating access to basic services in these settlements;**

(b) **Strengthen efforts to provide adequate social housing to Roma families through special housing programmes led by municipalities, including by allocating an adequate budget for such programmes;**

(c) **Firmly address the de facto segregation of Roma children in education with a view to complying with article 3 of the Convention. The Committee underlines that conditions of racial segregation are not necessarily created by governmental policies but may arise as an unintended by-product of actions of private persons leading to social isolation. The State party should eliminate any discrimination against Roma pupils in respect of access to an adequate education and should combat stereotypes that lead to social exclusion;**

(d) **Intensify efforts to increase preschool attendance among Roma and decrease dropout rates at all school levels;**

(e) **Take effective measures to facilitate the training and employment of Roma, including through the adoption or expansion of effective measures, such as targeted assistance with job-seeking in the mainstream labour market, special measures for employment in the public sector and incentives for employment in the private sector;**

(f) **Pursue efforts to expand health insurance coverage among Roma and strengthen the outreach carried out by the medical mobile units, including through the provision of emergency health-care services, throughout all settlements with a considerable Roma population, ensure that Roma can access quality health-care services without discrimination and train medical professionals to interact effectively with people from different cultural backgrounds;**

(g) **Take immediate steps, such as awareness-raising campaigns, to eliminate prejudices and stereotypes regarding Roma and their contribution to society, in order to secure their adequate representation in political and public life.**

Migrants, refugees and asylum seekers

21. The Committee is aware of the increased number of migrants, refugees and asylum seekers in the State party. It also appreciates measures taken in collaboration with United Nations and European Union entities to improve the living conditions in reception centres and the functioning of the asylum system. The Committee remains concerned, however, about the following:

(a) Reports that migrants have been pushed back from the border, with the border police resorting to excessive use of force, and that the authorities have engaged in refoulement, including in respect of individuals with specific needs or vulnerabilities;

(b) The criminalization of irregular border crossing;

(c) The limited funds allocated to the State Agency for Refugees and the suspension of the monthly payment of 32 euros to all asylum seekers residing in reception centres;

(d) The lack of early identification, assessment and referral mechanisms for asylum seekers in vulnerable situations, such as unaccompanied children, and the frequent absence of individual, qualified legal guardians for unaccompanied children;

(e) The fact that undocumented asylum seekers continue to be placed in administrative detention and that, starting in January 2016, the grounds for detaining asylum seekers have been expanded; moreover, the Committee is concerned about the substandard material conditions in administrative detention centres and reports of ill-treatment;

(f) The practical hurdles faced by beneficiaries of international protection, including lack of access to social housing and language training, that hinder their enjoyment of socioeconomic rights (arts. 5 and 6).

22. **The Committee recommends that the State party take a human-rights based approach and integrate a non-discrimination perspective into its migration governance. Recalling its general recommendations No. 22 (1996) on refugees and displaced persons in the context of article 5 of the Convention and No. 30 (2004) on discrimination against non-citizens, the Committee urges the State party to:**

(a) **Refrain from engaging in pushbacks and refoulement, conduct individual assessments, ensure the availability of adequate procedural safeguards, investigate effectively any excessive use of force by law enforcement officials in the context of migration at the border or in detention facilities and bring perpetrators to justice by sanctioning them adequately;**

(b) **Decriminalize irregular border crossing and develop policies and avenues for regularizing the status of migrants, in particular those in a situation of vulnerability;**

(c) **Increase allocations to the State Agency for Refugees to enable it to discharge its functions effectively and reinstate an adequate monthly payment for all asylum seekers residing in reception centres;**

(d) **Put in place procedures to permit the rapid and appropriate identification of persons in vulnerable situations, ensure that staff are trained to conduct identification and referral procedures in a sensitive manner, guarantee the availability of individual and qualified legal guardians to all unaccompanied children and, to that end, strengthen the human and financial capacity of municipalities;**

(e) **Stop the practice of placing undocumented asylum seekers in mandatory detention, consider developing alternatives to detention while ensuring that detainees enjoy due process and fair trial guarantees, continue improving the capacity and material conditions of reception centres, and ensure that all asylum seekers have access to basic services, including health care, psychological assistance and education;**

(f) **Step up integration efforts for beneficiaries of international protection, including by facilitating access to social housing and language training, with a view to ensuring their ability to enjoy their socioeconomic rights and, to that end, effectively implement the National Strategy on Migration, Asylum and Integration.**

D. Other recommendations

Ratification of other treaties

23. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.**

Follow-up to the Durban Declaration and Programme of Action

24. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

25. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

26. **The Committee recommends that the State party continue consulting and enhancing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Dissemination of information

27. **The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Follow-up to the present concluding observations

28. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 10 (a) and 22 above.**

Paragraphs of particular importance

29. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8, 12, 14 and 20 above**

and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

30. **The Committee recommends that the State party submit its combined twenty-third to twenty-fifth periodic reports, as a single document, by 4 January 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**